

# Notice of Allowability

Application No.

09/918,580

Examiner

Timothy P McAnulty

Applicant(s)

SHUMAN, DEREK BARNET

Art Unit

3682

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 04/09/2004.
2. ☒ The allowed claim(s) is/are 30-33, 35-46, and 48.
3. ☒ The drawings filed on 24 November 2003 and 31 July 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Derek Shuman on 07 July 2004.

2. The application has been amended as follows:

**In the Claims:**

The following changes have been made to correct 35 USC §112 issues:

In lines 37-38 of claim 30, delete "in the absence of said corresponding binding".

In line 38, replace "its axis of revolution" with --a longitudinal axis--.

In lines 44-45 of claim 30, replace "its axis of revolution" with --a longitudinal axis--.

In lines 49-50 of claim 30 replace "wherein the improvement comprises the addition of" with --and--.

In line 32 of claim 43, delete "wherein the improvement comprises the addition of".

In line 40 of claim 43, delete "in the absence of said corresponding binding".

In line 46 of claim 43, delete "in the absence of said corresponding binding".

The following changes have been made to cancel claims drawn to an un-elected species:

Cancel claim 55.

*Reasons for Allowance*

3. The following is an examiner's statement of reasons for allowance: The prior art discloses or teaches a pedal comprising a spindle, bindings, a tread cage having shoe supporting surfaces thereon on either side of a vertical reference plane which is in line with a longitudinal axis of said spindle and generally perpendicular to said shoe supporting surfaces, and a height variability linkage positioning and holding a height of said bindings higher than a height of said shoe supporting surfaces wherein said respective heights of said bindings and said shoe supporting surfaces are referenced to a longitudinal axis of said spindle. However:

regarding claims 30-33 and 35, the prior art does not disclose or teach the height of said shoe supporting surface, as determined as the distance from said longitudinal axis of said spindle to a first 8 inch cylinder tangently touching said supporting surface on either side of said vertical reference plane, and the height of said bindings, as determined as the distance from said longitudinal axis of said spindle to a second 8 inch cylinder tangently touching the upper most surface of said binding and aligned parallel to said first cylinder and in the plane defined by a longitudinal axis of said first cylinder and said longitudinal spindle axis, such that said height variability linkage varies and securely holds said height of said bindings to be equal to or less than the height of said shoe supporting surfaces; i.e., the entire binding is varied and held such that it does not intersect the first cylinder.

regarding claims 43-46 and 48, the prior art does not disclose or teach the height of said shoe supporting surface as determined as the distance from said longitudinal axis of said spindle to a first plane tangently touching said supporting surface on either side of said vertical reference plane, such that said height variability linkage varies and securely holds said bindings not intersect the first plane.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


***Conclusion***

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684. The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tpm 

  
DAVID A. BUCCI 2/9/04  
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